

### **REMARKS**

The claims have been amended by rewriting claims 1, 11 and 18, and canceling claim 10. Claims 1-9 and 11-21 remain in the application. The actions taken are in the interest of expediting prosecution and with no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled in view of the prior art. Further, no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references. Reconsideration of this application is respectfully requested.

### **DRAWINGS**

The drawings are objected for failing to show “a bridge, a switch and a router.” Claim 10 has been cancelled, which is the only claim to include these elements. Therefore, this rejection is moot.

### **35 U.S.C. § 103**

Claims 1-21 are rejected under 35 U.S.C. § 103 as being unpatentable over Matsuda et al (U.S. Patent No. 5,499,247, hereinafter Matsuda et al.) in view of Bertin et al. (U.S. Patent No. 5,940,372, hereinafter Bertin et al.). Applicants' respectfully traverse the rejection and request reconsideration. It is incumbent upon the Examiner to prove a *prima facie* case of obviousness (MPEP 2143). To establish a *prima facie* case three basic criteria must be met. First, the prior art reference must teach or suggest all the claim limitations. Second, there must be a reasonable expectation of success. Finally, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference.

**TRAVERSE (i):** The combination does not provide Applicants' claimed invention.

Applicants' independent claims 1, 11 and 18 call for, among other things, a vehicle comprising *an active network*.

Applicants' are providing, along with this response, a Affidavit under 37 CFR 1.132 affirming by one of the inventors, who is also an expert in the field of computing and networking, that an active network is a network in which the nodes can perform custom operations on the messages that pass through the nodes. An active network does not require a central server or computing resource. Active network nodes are aware of the contents of the messages transported and can participate in the processing and modification of the messages while they travel through the network. Applicants' further submit that the Affidavit under 37 CFR 1.132 further obviates the Matsuda et al. and Bertin et al. references and their relevance as prior art.

Matsuda et al. teaches an in-car network that uses a multiplex transmission system utilizing a non-destructive arbitration type access system (column 3, lines 51-54). The multiplex transmission system collects data simultaneously from a plurality of multiplex nodes and performs error checking on the collected data (column 2, lines 28-34). The multiplex transmission system taught by Matsuda et al. is a passive network. Matsuda et al. does not teach or suggest the use of a vehicle comprising an active network.

Bertin et al. teaches a method of determining a route between an origin node and a destination node for transmission of packets without bandwidth reservation that includes a weighting algorithm for the various links of the network (column 6, lines 22-46). The network disclosed in '372 is a passive network. Bertin et al. does not teach or suggest the use of a vehicle comprising an active network.

"The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236 (Fed. Cir. 1989). MPEP § 2131. Contrary to Examiner's statement that all elements are disclosed in Matsuda et al. and Bertin, Applicants' claimed elements including a vehicle comprising *an active network*, are not disclosed or taught in Matsuda et al or Bertin et al. Since Matsuda et al. and Bertin et al, independently or in combination, do not contain at least these features of the Applicants' independent claims 1, 11 and 18, they does not include all of the elements of Applicants' independent claims 1, 11 and 18 and therefore cannot make obvious Applicants' independent claims.

**TRAVERSE (ii):** There is no motivation or suggestion contained in the cited art to combine the teachings of the references.

Before obviousness may be established, the Office Action *must show specifically* the principle, known to one of ordinary skill that suggests the claimed combination. In re Lee, 277 F.3d 1338, 1343 (Fed. Cir. 2002). In other words, the Examiner *must explain* the reasons one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention. Id. The factual question of motivation is material to patentability and *cannot be resolved based on subjective belief and unknown authority*. Id. at 1344. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under section 103, teachings of references can be combined *only* if there is some suggestion or incentive to do so. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577 (Fed. Cir. 1984). The critical inquiry is whether there is something in the prior art as a whole *to suggest* the desirability, and thus the obviousness, of making the combination. Fromson v. Advance Offset Plate, 755 F.2d 1549, 1556 (Fed. Cir. 1985). The Office Action *fails to show either a suggestion in the art or a compelling motivation based on sound scientific principles to combine the references and therefore the rejection under 35 U.S.C. § 103(a) is improper and should be withdrawn*. Applicants respectfully submit that there is no suggestion to combine the references, and if they could be properly combined, do not lead to the Applicants' invention.

Applicants believe that this rejection has been overcome.

Claims 2-9 depend either directly or indirectly from claim 1 and are believed to be allowable over the relied on references for at least the same reasons as claim 1.

Claims 12-17 depend either directly or indirectly from claim 11 and are believed to be allowable over the relied on references for at least the same reasons as claim 11.

Claims 19-21 depend either directly or indirectly from claim 18 and are believed to be allowable over the relied on references for at least the same reasons as claim 18.

### **Prior Art Not Relied Upon**

The references cited but not relied upon are not believed to anticipate or make obvious applicants' invention.

### Summary

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The Applicants believe that the subject application, as amended, is in condition for allowance. Such action is earnestly solicited by the Applicants.

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicant's attorney or agent at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

Accordingly, this application is believed to be in proper form for allowance and an early notice of allowance is respectfully requested.

Please charge any fees associated herewith, including extension of time fees, to 502117.

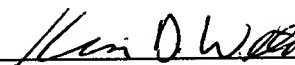
Respectfully submitted,

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